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UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

HOWREY LLP – EAST  
C/O IP DOCKETING DEPARTMENT  
2941 FAIRVIEW PARK DR., SUITE 200  
FALLS CHURCH, VA 22042-2924

**MAILED**

JUL 30 2009

OFFICE OF PETITIONS

In re Application of :  
John McCafferty et al :  
Application No. 10/803,653 : DECISION DISMISSING PETITION  
Filed: March 18, 2004 : UNDER 37 CFR 1.313(a)  
Attorney Docket No. 05569.0004.DVUS12 :

This is a decision on the petition filed July 28, 2009, which is being treated as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on May 21, 2009, with the issue fee being due on or before August 21, 2009. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1639 for appropriate processing of the RCE filed July 28, 2009, and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/  
Irvin Dingle  
Petitions Examiner  
Office of Petitions